

# Exhibit 13

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

ALBERT R. CHAVIES and THOMAS HOLLAND  
on behalf of themselves, individually, and on behalf  
of all others similarly situated, and on behalf of the  
CHE Plans,

Plaintiffs,

v.

CATHOLIC HEALTH EAST, a Pennsylvania  
Non-profit Corporation, ANTHONY  
CAMORATTO, an individual, CLAYTON  
FITZHUGH, an individual, and JOHN and JANE  
DOES, each an individual, 1-20,

Defendants.

Civil Action No. 13-1645

**AFFIDAVIT OF SISTER MARY PERSICO**

I, Sister Mary Persico, I.H.M., do state upon my own personal knowledge as follows:

1. Currently, I am the Executive Vice President for Mission Integration of Catholic Health East. In that role, my job duties include education of all members of the institution regarding our mission, core values, and relationship with the Roman Catholic Church as members of a Catholic health care system. I am a member of the executive management team. A true and correct copy of the job description for the position of Executive Vice President for Mission Integration is attached hereto as Exhibit 1.

2. I also am a Woman Religious from the Sisters, Servants of the Immaculate Heart of Mary, Scranton, Pennsylvania. I studied theology for two years before I took perpetual vows of poverty, chastity, and obedience and became a Sister. My studies included the topics of scripture, canon law, ethics, and philosophy.

3. I was the canonical treasurer of my religious congregation for eight years and the president of my congregation for eight years. I have also served on the boards of numerous Catholic organizations.

4. I have undergraduate degrees in French and education from Marywood University, a masters degree in French from Assumption College, and a doctoral degree in education from Lehigh University.

5. I began working for Catholic Health East in October 2010. Prior to being employed by Catholic Health East, I was a member of the Sponsors Council of Catholic Health East from 2004 to 2010. I was the Sponsors Council Coordinator from 2006 to 2010. As the Sponsors Council Coordinator, I was also a member of Catholic Health East's Board of Directors. A true and correct copy of my Curriculum Vitae is attached hereto as Exhibit 2.

6. Catholic Health East operates a Catholic health system which includes approximately 21 acute care hospitals, eighteen skilled nursing facilities, 24 freestanding and hospital-based long-term care facilities, four continuing care retirement communities, eight behavioral health and rehabilitation facilities, 21 home health/hospice agencies and many ambulatory and community-based health services. Catholic Health East's facilities are in eleven states from Florida to Maine.

7. Catholic Heath East's fundamental purpose is to carry out the healing mission of Jesus Christ as revealed in the Sacred Scriptures and in Tradition. One of the central purposes is to attend to the needs of the poor, consistent with Scripture.

8. This healing mission is an important part of the Roman Catholic Church, much like prayer and the giving and reception of the Sacraments. It has its origins in Scripture and teachings and directives of the Roman Catholic Church.

9. As explained in further detail below, Catholic Health East and its new parent corporation effective May 1, 2013 (CHE-Trinity Inc.) are ultimately controlled by, and associated with, the Roman Catholic Church.

I. **Catholic Health East**

10. Catholic Health East is incorporated as a non-profit Pennsylvania corporation. Twelfth Amended and Restated Articles of Incorporation of Catholic Health East (“2012 CHE Articles”) at Article IV, a true and correct copy of which is attached hereto as Exhibit 3.

11. As both Catholic Health East’s Articles of Incorporation and Bylaws make clear, CHE is an entity whose primary purpose is religious:

The Corporation is organized and shall be operated exclusively for the religious, charitable, scientific, educational purposes of supporting and strengthening the health care ministries of the Sponsoring Organizations which operate and are controlled in conformity with the ethical and moral teaching of the Roman Catholic Church, and promoting efficient governance and management, cooperative planning and the sharing of resources among such health care ministries.

2012 CHE Articles, Art. IV.A (emphasis added); Catholic Health East Bylaws effective June 14, 2012 (“2012 CHE Bylaws”) at Article I, a true and correct copy of which is attached hereto as Exhibit 4.

12. The Articles of Incorporation further provide that Catholic Health East is to be operated in accordance with “the canon law of the Roman Catholic Church exclusively for the benefit of the aforesaid health care ministries,” and that “[a]ll governance and property disputes are to be resolved in accordance with canon law as interpreted and applied by competent ecclesiastical authority.” 2012 CHE Articles, Art. IV.A.

13. By way of explanation, canon law is the law of the Roman Catholic Church, which is established and determined by the Church and ultimately the Pope. Canon law governs

the actions and rights of all Church entities, and Catholic Health East operates under and is governed by that law (as well as civil law).

14. To understand how Catholic Health East is controlled by and associated with the Catholic Church, an appreciation of a few important principles of canon law is needed.

**A. Hierarchy of the Roman Catholic Church**

15. The Holy See, sometimes called “the Vatican,” is the spiritual and administrative center of the Catholic Church. It acts and speaks for the entirety of the Roman Catholic Church. The Pope, who also serves as the Bishop of Rome, is the leader of the Holy See and the Roman Catholic Church.

16. As set forth in canon law, the Pope possesses “supreme, full, immediate, and universal ordinary power in the Church, which he is always able to exercise freely.” 1983 Code c.331. Thus, the Pope has ultimate control over the activities of all Catholic congregations, institutions, and entities, including medical care organizations and providers like Catholic Health East.

17. Canon 381 provides that a diocesan bishop is entrusted with “all ordinary, proper, and immediate power which is required for the exercise of his pastoral function except for cases where the law or a decree of the Supreme Pontiff reserves [them] to the supreme authority or another ecclesiastical authority.” 1983 Code c.381, §1. As a result, any Catholic congregation, institution or entity, including medical facilities, operating in a diocese is subject to the authority of the diocesan bishop in the relevant geography or with responsibility for the particular subject matter at issue.

18. A diocese is a portion of the People of God, administered by a bishop. Usually a diocese is territorial, although there are a certain number of exceptions (especially for Catholics belonging to the Eastern Catholic Churches). Several dioceses may be grouped together into an

“ecclesiastical province” under the authority of an archbishop. Dioceses are then subdivided into parishes.

19. The Congregation for Institutes of Consecrated Life and Societies of Apostolic Life is located in the Vatican and answers to the Pope. The Congregation is responsible for all things which concern institutes of consecrated life, such as religious orders or congregations, and societies of apostolic life regarding their governance, discipline, studies, goods, rights, and privileges.

20. When a religious congregation or entity, such as Catholic Health East, sponsored by one or more public juridic persons wishes to restructure significantly its operations and stable patrimony is involved, or change its mission, it must seek the appropriate canonical approvals, oftentimes from the Holy See itself.

#### **B. Public Juridic Persons**

21. Public juridic persons are created under canon law to perform work or carry out a mission and have perpetual existence. 1983 Code c. 113, §2. Conceptually they are similar to a corporation under civil law.

22. However, public juridic persons are “ordered for a purpose which is in keeping with the mission of the Church and which transcends the purpose of the individuals.” 1983 Code c.114, §1.

23. The purpose of a public juridic person must pertain to “works of piety, of the apostolate, or of charity, whether spiritual or temporal.” 1983 Code c.114, §2.

24. Public juridic persons act “in the name of the Church.” 1983 Code c.116, §1.

25. Thus, public juridic persons act on behalf of the Roman Catholic Church; their goods and property belong to the Church; and their actions are considered acts of the Roman Catholic Church in the same way that actions of persons who are members of religious orders are

considered Church actions, provided those actions are consistent with the tenets and mission of the Roman Catholic Church.

26. Individual churches and religious congregations (for example, the Sisters of Mercy), religious institutes, dioceses, and parishes are public juridic persons.

27. The Congregation for Institutes of Consecrated Life and Societies of Apostolic Life has the exclusive ability to give permission to create new public juridic persons of pontifical right and any such public juridic persons are accountable to the Congregation.

28. Once created, a public juridic person is governed by canon law and represented by individuals (such as a board). The public juridic person is subject to the authority of both the bishop(s) in whose diocese(s) it operates and the Pope. The Pope and the Congregation for Institutes of Consecrated Life and Societies of Apostolic Life can revoke or remove an entity's status as a public juridic person (known as "suppression") at any time, with or without the consent of the public juridic person. If a public juridic person is suppressed it ceases to exist.

29. In the health care context, a public juridic person, acting on behalf of or in the interest of the mission of the Roman Catholic Church, "sponsors" the Catholic hospital, clinic, nursing home, or similar institution. This relationship is, in the case of Catholic Health East, formalized in the organization's governing documents. The role of the sponsors is to ensure the continuation of the Catholic identity of the entity, including the Church's healing mission and adherence to Catholic doctrine and teachings.

### C. Stable Patrimony

30. Property under the dominion of a public juridic person is considered ecclesiastical property, which is dedicated to the mission of the Roman Catholic Church. When that property is immovable or fixed capital, for example land or buildings (such as hospitals) and has so been designated, it is referred to as "stable patrimony." 1983 Code c.1291.

31. Each public juridic person is obligated to maintain its stable patrimony. Because this property is designated as ecclesiastical property, the public juridic person is accountable to the Roman Catholic Church for its management and care of the property. 1983 Code c.635, §1, c.1273. The Roman Catholic Church receives and reviews reports regarding a public juridic person's Catholic identity, ministry, and stable patrimony, among other things, so that it can monitor the public juridic person's Catholic ministry and stewardship of its property. *See, e.g.*, January 8, 2013 letter from Cardinal Joao Braz de Aviz, Prefect, Congregation for Institutes of Consecrated Life and Societies of Apostolic Life, a true and correct copy of which is attached hereto as Exhibit 5.

32. Transactions involving stable patrimony in excess of a determined dollar amount must be approved by the competent Church authority. This dollar amount is approved from time to time by the Holy See. For transactions which exceed the maximum approved threshold, the permission of the Holy See is also required. 1983 Code c.1292.

## **II. Catholic Health East Corporate Structure**

33. Prior to the May 2013 Trinity Health consolidation (explained below) Catholic Health East was governed by a fiduciary board and the Sponsors Council. The Sponsors Council consisted of representatives from each of the Sponsoring Organizations that formed Catholic Health East (explained further below).

34. Pursuant to Catholic Health East's bylaws, a condition of having a representative on the Sponsors Council was being a public juridic person recognized or created by the Roman Catholic Church. 2012 CHE Bylaws at Article IV, Sects. 1, 2, & 4.

35. The following organizations each had a representative on the CHE Sponsors Council: (1) Franciscan Sisters of Allegheny; (2) Hope Ministries; (3) Sisters of Providence, Massachusetts; (4) Sisters of St. Joseph of St. Augustine, Florida; (5) Sisters of Mercy of the

Americas - Mid-Atlantic Community; (6) Sisters of Mercy of the Americas - New York, Pennsylvania, Pacific West Community; (7) Sisters of Mercy of the Americas Northeast Community; (8) Sisters of Mercy of the Americans – South Central Community.

36. Each of these entities is or was (as applicable) a public juridic person recognized or created by the Roman Catholic Church and subject to the direction, control and authority of the Church, through the local bishops and archbishops and the Holy See.

37. All of these entities, except for Hope Ministries, are or were during the relevant time an order of sisters, *i.e.*, nuns or women religious. Hope Ministries is a public juridic person of pontifical right authorized by the Congregation for Institutes of Consecrated Life and Societies of Apostolic Life. *See* July 7, 2000 Letter and Decree from the Congregation for Institutes of Consecrated Life and Societies of Apostolic Life, a true and correct copy of which is attached hereto as Exhibit 6.

38. The Sponsors Council had authority over Catholic Health East, including the powers to:

- Elect and remove, with or without cause, members of the Board of Directors of Catholic Health East;
- Approve any changes in the canonical status of the Corporation or any constituent corporations;
- Approve any decision to add or remove a Sponsoring Organization, or change the status or relationship of a Sponsor Organization to CHE.
- Ratify any proposed sale or other transfer, purchase, mortgage, or encumbrance of property of Catholic Health East where required by canon law, and subject to the approval of the Sponsoring Organizations accountable for such property.
- Ratify any merger, consolidation, dissolution or other fundamental reorganization of Catholic Health East, as may be required by policy or applicable canon law.
- Make or approve amendment to Articles of Incorporation or Bylaws of Catholic Health East.

2012 CHE Bylaws, Art. IV, Sect. 3.

39. Members of the civil Board of Directors of Catholic Health East were elected to the Board by the Sponsors Council. CHE Bylaws, at Article V, Sect. 2. Members of the Board were selected based on their “knowledge, experience, availability and commitment to the Catholic healthcare ministry . . .” 2012 CHE Bylaws, Art. V, Sect. 3.

### **III. History of Catholic Health East**

40. Beginning in the 1980s and continuing into the 1990s, there were dramatic shifts in the provision and structure of health care, in particular, the introduction of managed care, which resulted in price cuts by providers and limited the number of in-patient hospital days.

41. At the same time, there was a decreasing number of women religious in the sponsoring congregations, necessitating the involvement of appropriately formed laity in the administration of the hospitals.

42. In reaction to these changes in the health care market, religious congregations which sponsored Catholic health care entities, began to consolidate and combine their operations.

43. The religious congregations which initially formed Catholic Health East all had earlier joined with other Catholic health care providers to form regional health systems. In 1982, the Franciscan Sisters of Allegheny formed the Allegheny Health System, comprised of six hospitals, one nursing home, and one residential facility; in 1984 the Sister of Providence, General Chapter, created the Sisters of Providence Health and Human Service System, Inc. (later renamed Sisters of Providence Health System); and in 1986, nine regional Sisters of Mercy communities formed a loosely affiliated organization, the Eastern Mercy Health System.

44. In 1997, a national consortium of religious sisters gathered together to discuss and address the continuing challenges faced by Catholic health organizations. The sisters wanted to ensure the continuation of their Roman Catholic health ministries, and strengthen and better

position their ministries for the future. The idea of joining together to form Catholic Health East was one product of this meeting.

45. On approximately October 1, 1997, three groups of the religious congregations in attendance at that meeting, the Sisters of Providence, Sisters of Allegheny, and Sisters of Mercy formed a new sponsored organization by affiliating their regional health corporations into a larger co-sponsored health system, Catholic Health East.

46. At the time of its formation, Catholic Health East was jointly “sponsored” by the twelve Catholic religious congregations and communities (the “Sponsors”), which then operated the three health systems or regional health corporations. The Sponsors agreed they would oversee the operations of Catholic Health East and ensure its continued Roman Catholic identity and preservation of their health care ministries. *See* Catholic Health East Formation Letter of Intent, dated May 5, 1997, a true and correct copy of which is attached hereto as Exhibit 7. The Sponsors continued to sponsor their individual health ministries, however, the sole corporate member of each regional health corporation was Catholic Health East.

47. The Sponsors were central to the Roman Catholic mission and function of Catholic Health East. Thus, each regional health corporation controlled by Catholic Health East must have a sponsor, *i.e.*, a public juridic person, to accept canonical responsibility for its actions, and oversee the sponsor’s stable patrimony.

48. Initially, if a new sponsor wanted to join Catholic Health East, it needed to petition the existing Sponsors for approval of its admission into the health care ministry. If a new sponsor wanted to affiliate its health care ministries with Catholic Health East, but relinquish its sponsorship role (*i.e.*, transfer canonical responsibilities for its mission and assets

to another public juridic person), a new canonical sponsor would need to be identified to accept canonical responsibility for its assets and stable patrimony.

49. In December 1999, the Sponsors of Catholic Health East petitioned the Congregation for Institutes of Consecrated Life and Societies of Apostolic Life to authorize a new public juridic person of pontifical right titled “Hope Ministries,” which could accept the canonical responsibility of a health care ministry if its existing sponsor wanted to relinquish that responsibility.

50. On July 7, 2000, the Congregation for Institutes of Consecrated Life and Societies of Apostolic Life conferred by decree, public juridic personality on Hope Ministries. *See Letter and Decree from the Congregation for Institutes of Consecrated Life and Societies of Apostolic Life, Ex. 6.*

51. As described in Hope Ministries’ canonical statutes:

Hope Ministries is a sponsorship group, which on behalf of the Catholic community, furthers the healing mission of Jesus Christ. Hope Ministries is foremost a governance body. As such it ensures that each institution sponsored by Hope Ministries operates in conformity with the Mission, Vision and Values approved by the Members of Catholic Health East, consistent with the teachings and laws of the Roman Catholic Church appropriate to the provision of health care.

Hope Ministries will adhere to the Ethical and Religious Directives for Catholic Healthcare Institutions, as approved by the National Conference of Catholic Bishops, and as amended from time to time.

Hope Ministries Canonical Statutes, Article Two, a true and correct copy of which is attached hereto as Exhibit 8.

52. Hope Ministries became an active sponsor when it assumed the sponsorship of Global Health Ministries, a component corporation of Catholic Health East. Subsequently, Hope Ministries assumed the sponsorship of six hospitals and two long-term care facilities.

53. Thus, Catholic Health East had multiple regional health corporations, sponsored individually by a community of women religious or other public juridic person of pontifical right, such as Hope Ministries. The sole member of each regional health corporation was Catholic Health East, which in turn, was overseen by the Sponsors Council.

**IV. The 2013 Catholic Health East / Trinity Health Transaction**

54. Effective May 1, 2013, Catholic Health East consolidated its operations with those of Trinity Health Corporation (“Trinity”) to form a single Catholic health system, CHE-Trinity Inc. (“CHE-Trinity”). CHE-Trinity, the parent corporation of this health system, is a non-profit corporation.

55. This transaction required and received the approval of Catholic Health East’s eight Sponsors, and the sixteen bishops and archbishops in whose dioceses its health ministries are located.

56. As part of the transaction, Hope Ministries will be suppressed (*i.e.*, dissolved) as a public juridic person in favor of Catholic Health Ministries, a public juridic person, which will assume sponsorship of all the health systems and facilities operated by CHE-Trinity and its subsidiary corporations. Amended and Restated Bylaws of CHE Trinity, Inc. (“CHE-Trinity Bylaws”) at Sect. 2.04, a true and correct copy of which is attached hereto as Exhibit 9. The Catholic Health East sponsoring organizations have agreed to transfer all their stable patrimony to Catholic Health Ministries.

57. Catholic Health Ministries is governed by Canonical Statutes and Canonical Bylaws, which were submitted to and approved by the Congregation for Institute of Consecrated Life and Societies of Apostolic Life. *See* The Canonical Statutes of Catholic Health Ministries (“CHM Canonical Statutes”) and the Canonical Bylaws of Catholic Health Ministries (“CHM Bylaws”), true and correct copies of which are attached hereto as Exhibits 10 and 11.

58. Catholic Health Ministries' Canonical Statutes and Bylaws provide that:

The purpose of Catholic Health Ministries shall be to further the healing ministry of Jesus in the Church, through the ownership, management and governance of health facilities, programs and services intended to improve the health of individuals and the communities served. *Catholic Health Ministries* and its Apostolic Works are dedicated to relieving misery and addressing its causes with Christian compassion for suffering people, especially the poor. The activities will be conducted in a manner consistent with the teachings and laws of the Roman Catholic Church. *Catholic Health Ministries* will adhere to the Ethical and Religious Directives for Catholic Health Care Services promulgated by the United States Conference of Catholic Bishops (or any successor organization), as interpreted by the local ordinary and as amended from time to time.

CHM Canonical Statutes, Art. II; CHM Bylaws, Art. II.

59. Catholic Health Ministries' canonical bylaws provide that the majority of its board members must be of the Roman Catholic faith. CHM Bylaws, Sect. 3.01-3.02. The Chair and Vice-Chair of Catholic Health Ministries must be of the Roman Catholic faith. *Id.* at Sect. 4.01. Prior or subsequent to appointment, all Catholic Health Ministries members must participate in a formation process, meant to educate them in the Catholic health ministry. *Id.* at 3.04.

60. Catholic Health Ministries Canonical Statutes further recognize the authority of the Holy See, through the Congregation for Institutes of Consecrated Life and Societies of Apostolic Life, to oversee Catholic Health Ministries' activities and ensure that the "integrity of faith and morals is preserved and that the apostolic activity of *Catholic Health Ministries* are in accord with its purpose and for the common good." CHM Canonical Statutes, Sect. 5.02.

61. Catholic Health Ministries recognizes the authority of the local bishop in each diocese in which it operates over its day-to-day activities and must facilitate the exercise of the responsibilities of the local bishop concerning the pastoral care of persons, the exercise of divine worship and the teachings of the church.

62. Like the Sponsors Council of Catholic Health East, Catholic Health Ministries has certain reserved powers, including:

- Adopting and amending CHE-Trinity's Articles of Incorporation;
- Adopting, approving, or amending CHE-Trinity's Bylaws;
- Adopting and approving the Mission and Core Values of CHE-Trinity and the Founding Principles of the Catholic Health Ministries, and approving any matters which affect the Catholic identity of CHE-Trinity;
- To approve any transaction involving the stable patrimony of CHE-Trinity;
- To approve any corporate transaction involving CHE-Trinity;
- To ratify the appointment or removal of the president of CHE-Trinity; and
- To ratify the election of the Chair of the Board of Directors of CHE-Trinity.

CHE-Trinity Bylaws, Sect. 2.05.

63. Further emphasizing the importance of CHE-Trinity's Catholic identity, the members of Catholic Health Ministries are also the members of the CHE-Trinity Board of Directors. *Id.* at Sects. 3.01-3.04.

64. Catholic Health East continues to exist as a subsidiary corporation of CHE-Trinity and remains the sole corporate member of its regional health corporations. Its Roman Catholic identity remains central to its purpose. Thirteenth Amended and Restated Articles of Incorporation of Catholic Health East ("2013 CHE Articles") at Art. IV.A, a true and correct copy of which is attached hereto as Exhibit 12; *compare* 2012 CHE Articles *at supra ¶¶* at 11-12.

65. Its amended bylaws further emphasize its Catholic identity and purpose:

The activities of the Corporation shall be carried out in a manner consistent with the teachings of the Roman Catholic Church and "Founding Principles of Catholic Health Ministries" or successor documents which set forth principles describing how the apostolic and charitable Works of Catholic Health Ministries are to be carried out, as well as the values and principles inherent in the medical-moral teachings of the Roman Catholic Church (such as the *Ethical and Religious Directives for Catholic Health Care Services*) as promulgated from time to time by the United States Conference of Catholic Bishops (or any successor organization), as amended from time to time.

Amended and Restated Bylaws of Catholic Health East effective May 1, 2013 (2013 CHE Bylaws) at Sect. 2.02, a true and correct copy of which is attached hereto as Exhibit 13.

66. Catholic Health East's sole member is CHE-Trinity and its Board of Directors is the same as the Board of Directors of CHE-Trinity. *Id.* at Sect. 3.01, 4.02. Thus, Catholic Health East's Board of Directors is determined by the public juridic person that is Catholic Health Ministries. *Id.* at Sect. 4.02.

67. CHE-Trinity does not have a pension plan. The consolidation did not affect the CHE Plan.

## V. Catholic Health East's Catholic Identity

### A. The Biblical Underpinnings to Catholic Health Care

68. Catholic health ministries are central to the mission of the Roman Catholic Church, *i.e.*, to do God's healing work as demonstrated and taught by his only Son, Jesus Christ. As Sacred Scripture makes clear, healing and comforting the sick and dying were central to the ministry of Jesus and, in turn, to the Roman Catholic Church:

- “When Jesus came down from the mountain, great crowds followed him. And then a leper approached him, did homage, and said, ‘Lord, if you wish, you can make me clean.’ He stretched out his hand, touched him, and said, ‘I will do it. Be made clean.’ His leprosy was cleansed immediately.” Matthew 8:1-3.
- “While he was saying these things to them, an official came forward, knelt down before him, and said, ‘My daughter has just died. But come, lay your hand on her, and she will live.’ Jesus rose and followed him, and so did his disciples. A woman suffering hemorrhages for twelve years came up behind him and touched the tassel on his cloak. She said to herself, ‘If only I can touch his cloak, I shall be cured.’ Jesus turned around, saw her, and said, ‘Courage daughter! Your faith has saved you.’ And from that hour the woman was cured. When Jesus arrived at the official’s house and saw the flute players and the crowd who were making a commotion, he said, ‘Go away! The girl is not dead but sleeping.’ And they ridiculed him. When the crowd was put out, he came and took her by the hand, and the little girl arose.” Matthew 9:18-26.

69. Jesus also charged his apostles with spreading the word of God and healing the sick as part of their mission. As described in the Gospel of Luke, “[Jesus] summoned the

Twelve and gave them the power and authority over all demons and to cure diseases, and he sent them to proclaim the kingdom of God and to heal [the sick]. . . . Then they set out and went from village to village proclaiming the good news and curing diseases everywhere.” Luke 9:1-6.

70. Catholic health ministries like Catholic Health East, seek to emulate the actions of the Good Samaritan, including ministering to those of other faiths and persuasions. That parable (told in response to a question from a lawyer) is a tale of a man who fell victim to robbers and was left half-dead on the road to Jericho. A priest and a Levite passed by the man on the opposite side, but a Samaritan stopped to assist the man, treated and bandaged his wounds, and took him to an inn where he continued to care for the man. Jesus ends the parable by asking “Which of these three, in your opinion, was neighbor to the robbers’ victim?” The lawyer responded “The one who treated him with mercy.” And Jesus instructed him to “Go and do likewise.” Luke 10:25-37. Catholic health ministries such as Catholic Health East derive their healing mission from this and like passages in Scripture.

71. Thus, although other organizations may provide healthcare services for other worthy reasons or for financial gain, Catholic Health East provides healthcare specifically to further the mission of Jesus and the Roman Catholic Church.

72. The Ethical and Religious Directives for Catholic Health Services (“Ethical and Religious Directives”) are published and periodically revised by the United States Conference of Catholic Bishops. *See generally*, Ethical and Religious Directives, a true and correct copy of which is attached hereto as Exhibit 14. They have two primary purposes: “first, to reaffirm the ethical standards of behavior in health care that flow from the Church’s teachings about the dignity of the human person; second, to provide authoritative guidance on certain moral issues that face Catholic health care today.” Ethical and Religious Directives at 4.

73. Catholic health ministry is informed by social responsibility principles, outlined in the Ethical and Religious Directives:

- “First, Catholic health care ministry is rooted in a commitment to promote and defend human dignity. . . . The first right of the human person, the right to life, entails a right to the means for the proper development of life, such as adequate health care.”
- “Second, the biblical mandate to care for the poor requires us to express this in concrete action at all levels of Catholic health care. . . . In Catholic institutions, particular attention should be given to the health care needs of the poor, the uninsured, and the underinsured.”
- “Third, Catholic health care ministry seeks to contribute to the common good.”
- “Fourth, Catholic health care ministry exercises responsible stewardship of available health care resources. A just health care system will be concerned both with promoting equity of care – to assure that the right of each person to basic health care is respected – and with promoting the good health of all in the community.”
- “Fifth, with a pluralistic society, Catholic health care services will encounter requests for medical procedures contrary to the moral teachings of the Church. Catholic health care does not offend the rights of individual conscience by refusing to provide or permit medical procedures that are judged morally wrong by the teaching authority of the Church.”

Ethical and Religious Directives at 10-11. These are both “Ethical” and “Religious” directives as instructed by the Catholic Church.

74. The Ethical and Religious Directives provide Catholic health care institutions with extensive guidance on implementing Catholic principles in all aspects of health care, including relationships between medical professional and their patients, beginning- and end-of-life issues, and forming partnerships with health care organizations and providers.

75. As the Ethical and Religious Directives explain: “The mystery of Christ casts light on every facet of Catholic health care: to see Christian love as the animating principle of health care; to see healing and compassion as a continuation of Christ’s mission; to see suffering as participation in the redemptive power of Christ’s passion, death, and resurrection; and to see

death, transformed by the resurrection, as an opportunity for a final act of communion with Christ.” Ethical and Religious Directives at 6.

76. As set forth in Catholic Health East’s Code of Conduct, its employees and partners in its health care ministry must follow the Ethical and Religious Directives. CHE Code of Conduct at 4, a true and correct copy of which is attached hereto as Exhibit 15. The Ethical and Religious Directives are applicable to “all activities on behalf of or in relation to CHE.” *Id.*

77. To ensure that Catholic Health East is following the Ethical and Religious Directives, individual hospitals and Catholic Health East have ethics committees to review health care issues which raise questions under the Ethical and Religious Directives. The ethics committees review these issues with the ultimate goal of providing health care in a manner consistent with the Ethical and Religious Directives. Typically, when issues arise, the ethics committee will meet, discuss, and pray for guidance about the best way to handle particular situations.

78. Failure to comply with the Ethical and Religious Directives and Catholic principles can have severe consequences. For example, if the diocesan bishop determines that a Catholic hospital violated the Ethical and Religious Directives, he can revoke its Catholic identity.

**B. Catholic Health East Does Not Discriminate On The Basis Of Religion.**

79. Because Catholic Health East is a Roman Catholic organization built on a history and tradition of social justice and inclusivity, it provides health care services and pastoral care to all in need, without regard to race, gender, ethnicity, creed or religion.

80. This is consistent with the Catholic commitment to engaging in fellowship and promoting unity among all men, regardless of religion. As the documents of Vatican II decreed:

No foundation therefore remains for any theory or practice that leads to discrimination between man and man or people and people, so far as their human dignity and the rights flowing from it are concerned.

The Church reprobates, as foreign to the mind of Christ, any discrimination against men or harassment of them because of their race, color, condition of life, or religion. On the contrary, following in the footsteps of the holy Apostles Peter and Paul, this sacred synod ardently implores the Christian faithful to "maintain good fellowship among the nations" (1 Peter 2:12), and, if possible, to live for their part in peace with all men, so that they may truly be sons of the Father who is in heaven.

*Nostra Aetate*, Declaration of the Relation of the Church to Non-Christian Religions, Proclaimed by his Holiness Pope Paul VI on October 28, 1965, available at

[http://www.vatican.va/archive/hist\\_councils/ii\\_vatican\\_council/documents/vat-ii\\_decl\\_19651028\\_nostra-aetate\\_en.html](http://www.vatican.va/archive/hist_councils/ii_vatican_council/documents/vat-ii_decl_19651028_nostra-aetate_en.html) (last visited June 15, 2013).

81. The need to provide pastoral care to individuals of all faiths is further recognized in the Religious and Ethical Directives, which instruct that "Pastoral care personnel should work in close collaboration with local parishes and community clergy. Appropriate pastoral services and/or referrals should be available to all in keeping with their religious beliefs or affiliations."

Ethical and Religious Directives, Directive No. 11.

82. Likewise, Catholic social teachings instruct that Catholic institutions should not discriminate in job opportunities and that discrimination "on the basis of race, sex, or other arbitrary standards can never been justified." Catholic Social Teaching: Thinking Through Diversity and Inclusion at 2 (quoting USCCB Economic Justice, # 73, 167), a true and correct copy of which is attached hereto as Exhibit 16.

83. The Ethical and Religious Directives further instruct Catholic health care institutes to treat their employees "respectfully and justly. This responsibility includes: equal employment opportunities for anyone qualified for the task, irrespective of a person's race, sex, age, national origin, or disability." Ethical and Religious Directives, Directive No. 7.

84. Welcoming a diverse group of patients who are served by a diverse group of employees enriches Catholic Health East and allows it to better respond to the needs of the communities which it serves, and furthers the ecumenical and outreach goals of Vatican II. Treating a diverse group of patients also serves and honors Jesus' directive to the Apostles that they go forth and heal people in body, mind, and spirit.

**C. Catholic Health East's Commitment to Serving the Poor and Vulnerable**

85. The women religious who founded many of the hospitals and health organizations which are now part of Catholic Health East shared a commitment to providing care to those most in need. That commitment is central to Roman Catholic theology and continues to today.

86. Sacred Scripture commands the faithful to minister to those in need:

When the Son of Man comes in his glory, and all the angels with him, he will sit upon his glorious throne . . . Then the king will say to those on his right, “Come, you who are blessed by my Father. Inherit the kingdom prepared for you from the foundation of the world. For I was hungry and you gave me food, I was thirsty and you gave me drink, a stranger and you welcomed me, naked and you clothed me, ill and you cared for me, in prison and you visited me.” Then the righteous will answer him and say, “Lord, when did we see you hungry and feed you, or thirsty and give you drink? When did we see you a stranger and welcome you, or naked and clothe you? When did we see you ill or in prison, and visit you?” And the king will say to them in reply, “Amen, I say to you, whatever you did for one of these least brothers of mine, you did for me.”

Matthew 25:31-40.

87. Likewise, Jesus teaches that “When you hold a lunch or a dinner, do not invite your friends or your brothers or your relatives or your wealthy neighbors in case they may invite you back and have repayment. Rather, when you hold your banquet, invite the poor, the crippled, the lame, the blind; blessed indeed will you be because of their inability to repay you. For you will be repaid at the resurrection of the righteous.” Luke 14:12-14.

88. Consistent with these passages, “Catholic health care should distinguish itself by service to and advocacy for those people whose social condition puts them at the margins of our

society and makes them particularly vulnerable to discrimination: the poor; the uninsured and the underinsured; children and the unborn; single parents; the elderly; those with incurable diseases and chemical dependencies; racial minorities; immigrants and refugees.” Ethical and Religious Directives, Directive No. 3.

89. Thus, Catholic Health East devotes substantial resources to serving the poor and disadvantaged in the communities in which it operates. This community benefit includes unpaid charitable care, unpaid costs of Medicaid (*i.e.*, the differences between the actual cost to Catholic Health East of providing care to Medicaid recipients and the payments received from the government), and a myriad of free and subsidized community health and education services.

90. Catholic Health East organizations also operate volunteer clinics and mobile health programs; distribute food and clothing to those who are poor; provide free health screenings, mammography, and prescription drugs; stuff backpacks for indigent school children; and go on foot to provide health care to people living on the street.

91. The Catholic Health Association of the United States (“CHAUSA”), of which Catholic Health East is a member, provides standards for quantifying the community benefit provided by Catholic health care providers. To qualify as a community benefit, care must address an identified community need and meet at least one of the following criteria:

- improves access to health care services;
- enhances the health of the community;
- involves education or research that improves overall community health; and
- supplies services or programs that would likely be discontinued or would need to be provided by another not-for-profit or government provider, if a decision was made on a purely financial basis.

*See CHAUSA, “What Counts as Community Benefit,” available at*

<http://www.chausa.org/communitybenefit/what-counts> (last visited June 15, 2013).

92. Global Health Ministries is a separately incorporated program of Catholic Health East. Global Health Ministries is dedicated to improving the lives of people in developing countries who are poor and underserved. It has mission sites in Peru, Guatemala, Haiti, and Jamaica.

93. Global Health Ministries sends teams of volunteer health care professionals from throughout Catholic Health East to its mission sites. The volunteers provide both general and specialty medical care, and work to improve the local ability to provide health care services through training and the provision of supplies. Global Health Ministries also provides community development programs that focus on areas such as sanitation, hygiene, wound care, women and children's health, and healthy life styles.

94. Catholic Health East provides hundreds of millions of dollars in community benefit:

Year	Community Benefit
2006	\$188,087,000
2007	\$188,841,000
2008	\$217,037,000
2009	\$230,700,000
2010	\$228,826,000
2011	\$221,092,000
2012	\$254,043,000

95. Importantly, Catholic Health East provides this community benefit specifically because of its Catholic mission and in furtherance of the teachings of Jesus Christ.

**D. Educating Catholic Health East's Leaders To Continue Its Catholic Mission**

96. Due to the diminishing numbers of religious sisters available to continue the healing ministry, laity are increasing involved in leading Catholic Health East in fulfilling its

Catholic mission. Vatican II specifically acknowledged the central role of the laity in assisting the Church in achieving its goals and mission, and the increasing role of the laity in the operation and administration of Catholic Health is consistent with Catholic doctrine. *See Apostolicam Actuositatem*, Decree on the Apostolate of the Laity, promulgated by Pope Paul VI on Nov. 19, 1965, available at

[http://www.vatican.va/archive/hist\\_councils/ii\\_vatican\\_council/documents/vat-ii\\_decree\\_19651118\\_apostolicam-actuositatem\\_en.html](http://www.vatican.va/archive/hist_councils/ii_vatican_council/documents/vat-ii_decree_19651118_apostolicam-actuositatem_en.html) (last visited June 15, 2013).

97. Catholic Health East devotes substantial resources to ensuring that its leaders and managers are thoroughly educated in the biblical roots of Catholic health care and the related goal of attending to the needs of the poor, its Catholic mission, and how best to fulfill and continue that mission.

98. For example, Catholic Health East provides written materials explaining: the Biblical tradition animating Catholic health care, the relation of health care to Roman Catholic ministry, the Ethical and Religious Directives, the relationship of the Church's teachings to health care, and the importance of caring for the poor and community benefit. *See Ministry Formation*, Catholic Health East, a true and correct copy of which is attached hereto as Exhibit 17.

#### E. Selection of Health Care Partners

99. Catholic Health East strives to support its health care ministries in meeting community need and in doing so Catholic Health East may partner with other entities in some communities which are not Catholic health ministries.

100. Vatican II also specifically acknowledged that Catholic institutions engage in ecumenism through partnerships and cooperation for the common good of humanity with non-

Catholic, Christian organizations and churches. *Apostolicam Actuositatem*, Decree on the Apostolate of the Laity at ¶4.

101. Catholic Health East has basic principles which guide its decisions to partner with other entities in the provision of health care services:

- Compliance with the Ethical and Religious Directives;
- Being faithful to Catholic Social Justice Tradition; and
- Their values resonate with values of Catholic Health East.

102. Before agreeing to any potential partnership, Catholic Health East is obligated to discuss the matter with its canonical Sponsors and the local bishop.

103. Central to Catholic Health East's decision to partner with another organization is whether the potential partner reflects the values inherent in the Catholic health ministry and recognizes the basic values such as justice for all, basic human rights of all persons, the dignity of the human person, and reverence for all creation.

**F. Catholic Health East is included in IRS Group Ruling Given to the United States Conference of Catholic Bishops and the Official Catholic Directory**

104. Throughout its existence, continuing to today, Catholic Health East has been a non-profit, tax-exempt corporation. *See supra* at ¶ 10.

105. At the time of its formation, Catholic Health East applied for inclusion in the United States Conference of Catholic Bishops Group Ruling regarding the tax exempt status of Catholic institutions. *See Application for Inclusion in USCC Group Ruling*, a true and correct copy of which is attached hereto as Exhibit 18.

106. The United States Conference of Catholic Bishops granted Catholic Health East's application.

107. Catholic Health East is included in the Official Catholic Directory (“OCD”), which lists the names and addresses of the Roman Catholic agencies and instrumentalities, and the educational, charitable, and religious institutions. *See* relevant excerpts of the Official Catholic Directory, a true and correct copy of which are attached hereto as Exhibit 19.

I declare under penalty of perjury pursuant to 28 U.S.C. § 1746 that the foregoing information is true and correct.

*Mary Persico, IHM*

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Sister Mary Persico, IHM

Dated: June 17, 2013  
Newtown Square, PA